

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

NHATHIYA T. CORNEY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No.:
)	
CHAD HALE TRUCKING CO., et al.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW Defendant Chad Hale Trucking Co. ("Defendant"), by and through the undersigned counsel, pursuant to 28 U.S.C. §§ 1441 and 1446 and 28 U.S.C. § 1332, and hereby removes this action from the Circuit Court of Jackson County, Missouri to the United States District Court for the Western District of Missouri, Western Division. In support, Defendant states as follows:

I. FACTUAL BACKGROUND

1. This is a civil action currently pending in the Circuit Court of Jackson County, Missouri under the case caption *Nhathiya T. Corney, et al. v. Chad Hale Trucking Co., et al.*; Case No. 2016-CV17346.

2. Defendant has not filed an Answer to the State Court Petition as of the filing of the instant removal.

3. Other than the Petition, no other state court filing has been served upon Defendant. A copy of the Petition is attached hereto as **Exhibit A**. See 28 U.S.C. § 1446(a) (requiring that the removing defendant file copies of all process, pleadings, and orders served upon such defendant).

II. PROCEDURAL REQUIREMENTS FOR REMOVAL

4. The removing party is Defendant Chad Hale Trucking Co.

5. Defendant was served with a copy of the Petition on September 10, 2020. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) and Rule 6(a) of the Federal Rules of Civil Procedure, because thirty (30) days from the date of service was Saturday, October 10, 2020, and Defendant filed this Notice of Removal on Monday, October 12, 2020, which was on or before the next day that was not a Saturday, Sunday, or legal holiday.

6. Defendant Chad Hale Trucking Co. will file its Answer or otherwise respond to the Petition within the time limits set forth in F.R.C.P. 81(c).

7. Written notice of the filing of this Notice of Removal is concurrently being given to all adverse parties. A true and correct copy of this Notice of Removal and Notice of Filing of Notice of Removal are concurrently being filed with the Clerk of the Circuit Court of Jackson County, Missouri, as required by 28 U.S.C. § 1446(d). A copy of this Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

8. Defendant has a right of removal where an action is brought in state court over which the district court has original jurisdiction. See 28 U.S.C. § 1441(a). As set forth below, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

III. DIVERSITY JURISDICTION: 28 U.S.C. § 1332

9. According to 28 U.S.C. § 1446(a), a notice of removal must contain a short and plain statement of the grounds for removal. Defendant's removal of this action is based upon diversity of citizenship pursuant to 28 U.S.C. § 1332.

10. 28 U.S.C. § 1332(a)(1) provides that “the district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000 . . . and is between . . . citizens of different States.”

11. Plaintiffs Nhathiya T. Corney and Jennifer D. Beaird are citizens and residents of Kansas City, Clay County, Missouri. (*See* Exhibit A, Plaintiff’s Petition at ¶ 1).

12. Defendant Chad Hale Trucking Co. is a citizen and resident of Wellsville, Kansas. (*See* Exhibit A, Plaintiff’s Petition at ¶ 3).

13. Defendant Anthony Ebaben is a citizen and resident of Paola, Kansas. (*See* Exhibit A, Plaintiff’s Petition at ¶ 2).

14. Because Plaintiffs are residents/citizens of Clay County, Missouri (*See* Exhibit A, Plaintiff’s Petition at ¶ 1) and Defendants are residents/citizens of Kansas (*See* Exhibit A, Plaintiff’s Petition at ¶¶ 2-3), this action is between citizens of different states.

15. The amount in controversy exceeds \$75,000. Plaintiffs’ Petition asserts claims for damages on behalf of two individuals arising out of a motor vehicle accident, and Plaintiffs’ have alleged injuries to their back, neck, and/or shoulder; headaches; a concussion; and PTSD. (*See* Exhibit A, Plaintiffs’ Petition, ¶¶ 13-15, 18, 29, and 32). Plaintiffs seek damages for physical and emotional injuries, loss of enjoyment of life, loss of earnings/earning capacity, past and future medical expenses, and punitive damages. *Id.*

16. Accordingly, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the action is between citizens of different states and the amount in controversy exceeds \$75,000.

WHEREFORE, Defendant Chad Hale Trucking Co. hereby gives notice that this action is removed from the Circuit Court of Jackson County, Missouri to the United States District Court

for the Western District of Missouri, and Defendant further requests that this Court exercise jurisdiction over this action as though it had been originally instituted in this Court subject to Defendant's right to answer or otherwise respond and assert all available defenses within the time limits set forth in F.R.C.P. 81(c).

Respectfully submitted,

FRANKE SCHULTZ & MULLEN, P.C.

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**Attorneys for Defendant Chad Hale
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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the above and foregoing was filed with the Court electronically and sent electronically via e-mail, U.S. Mail or Fax on this 12th day of October, 2020, to:

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